

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

CINDY PRESS, as Special Administrator of the )  
Estate of Ying Deng, )

Cross-Claimant, )

v. )

JASON CAI, )

Cross-Defendant. )

Case No.: 09-CV-00396-LHK

ORDER ON REMAINING MOTIONS IN  
LIMINE

On September 15, 2014, counsel for Cross-defendant Jason Cai, Ms. Pulliam, was ordered to file by September 16, 2014 a copy of Grace Shum's testimony from the criminal trial and to file a supplemental declaration regarding Ms. Pulliam's efforts to contact Ms. Shum. While Ms. Pulliam timely filed her supplemental declaration, she has not filed a copy of Ms. Shum's prior testimony. The Court is providing Ms. Pulliam one more opportunity to fully comply with the Court's order. Ms. Pulliam is ordered to bring a copy of Ms. Shum's former testimony to the status conference set for September 18, 2014 at 2 p.m. The Court will rule on the Cross-claimant's motion in limine # 3 to exclude Ms. Shum's testimony after reviewing the transcript of Ms. Shum's testimony. Should Ms. Pulliam fail to comply for a second time, the Court will exclude Ms. Shum's testimony from evidence because of Ms. Pulliam's failure to comply with two Court's orders.

The full and complete coroner's report is admissible subject to proper authentication under Federal Rule of Evidence 902. To the extent that Cross-defendant Cai's motion in limine # 6 requests that the full and complete coroner's report be deemed admissible, the motion is granted.

The Court DENIES in part Cross-defendant Cai's motion in limine #3 to exclude Cross-claimant's Exhibits 22, 23, & 24, the information, felony complaint, and abstract of judgment in *People v. Cai*, CC801427. Having reviewed the proposed exhibits and redactions, the Court finds

1 Cross-claimant's Exhibits 23-R and 24-R, the redacted information and redacted abstract of  
2 judgment are admissible subject to proper authentication under Federal Rule of Evidence 902.

3 On September 17, 2014, Cross-claimant Press requested, for the first time, that the Court  
4 find admissible the prior testimony of Shen Hui Di. This request is untimely. All declarations  
5 regarding a witness's unavailability should have been filed by the September 11, 2014 pretrial  
6 conference. Moreover, Cross-claimant offers no evidence of Shen Hui Di's unavailability under  
7 Federal Rule of Evidence 804 and instead offers only attorney argument. The Court DENIES  
8 Cross-claimant's request to deem admissible Shen Hui Di's prior testimony from the criminal trial.

9 **IT IS SO ORDERED.**

10 Dated: September 17, 2014

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13 LUCY H. KOH  
14 United States District Judge  
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United States District Court  
For the Northern District of California